IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 12490 of 1994

Between:

B. K. Rajanna S/o. B. S. Krishna Murthy
Draughtsman Grade-I in TTD service at Tirupathi R/o. Tirupathi.

..... PETITIONER

AND

1. The Executive Officer Tirumala Tirupathi Devasthanams, Tirupathi, Chittoor Dist.
2. Chief Engineer Tirumala Tirupathi Devasthanams, Tirupathi, Chittoor Dist.
3. Sri P.Parandham, Dy.Executive Engineer, T.T.Devasthanams, Balaji Bhavan, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction, particularly in the nature of Writ of Certiorari and call for the records relating to the Memo Roc. NO. C-2/2600/CE/94 dated 5-7-94 from the file of the second Respondent and after perusing the same, set aside the promotion of the third Respondent by holding that promoting the third Respondent ignoring the petitioner's claim for promotion to the post of Deputy Executive Engineer as arbitrary, discriminatory and illegal and consequently direct the first Respondent to promote the petitioner to the post of Deputy Executive Engineer with effect from 5-7-1994 with all consequential benefits.

Counsel for the Petitioner: MR.V.JAGAPATHI

Counsel for the Respondent Nos.1&2: SMT. N.K.ANNAPURNA DEVI S.C. FOR T.T.D.

Counsel for the Respondent No.3: Ms. P. SARALA

The Court made the following:

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ORDER:

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This petition is filed seeking Writ of Certiorari to call for the records relating to Memo Roc.No.C-2/2600/CE/94 dated 05-07-1994 and direct the first respondent to give promotion to the petitioner to the post of Deputy Executive Engineer with effect from 05-07-1994 with all consequential benefits by setting aside the promotion order given to the third respondent for the said post as per the proceedings under Memo Roc.No.C-2/2600/CE/94 dated 05-07-1994 by the second respondent.

2. It is the case of the petitioner that initially he was appointed as Draughtsman Grade-I in Tirumala Tirupathi Devasthanams on regular basis and has joined to duty in the said post on 01-07-1962 and his probation was declared with effect from 12-10-1964 and his services as such were confirmed with effect from 13-09-1962 as per the proceedings of the first respondent vide Memo in D.Dis.No.B3.16478/73 dated 07-09-1973. At the time of entering into service he was possessed with educational qualifications of Diploma in Civil Engineering (LCE). So, he is entitled to for promotion to the immediate higher cadre i.e. Deputy Executive Engineer (Civil) according to his seniority.

3. Respondents filed counter-affidavit denying the averments mentioned in the affidavit filed in support of the petition contending *inter alia* that the Deputy Executive Engineer is a selection post, and promotion to the selection category posts shall be on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal. Further, the passing of Accounts Test for P.W.D officers which is not a newly prescribed test in TTD Service Rules have no relevance to the case of the petitioner. The petitioner's case was not considered earlier because of his adverse service record where he was under suspension from 20-07-1983 to 09-07-1986 A.N., for the alleged irregularities very grave in nature,

committed in preparing the tender schedules for certain works resulting in huge loss to the Tirumala Tirupathi Devasthanams. It is further stated that the third respondent is fully qualified to hold the post of Deputy Executive Engineer as per the qualifications prescribed vide G.O.Ms.No.10609, Revenue (Endt.I) Dept., dated 24-10-1989, therefore, his case was considered for promotion to the post in question overlooking his seniors who either disqualified themselves or facing grave charges of alleged irregularities.

4. Heard the learned counsel for the parties.

5. Having regard to the facts and circumstances of the case, inasmuch as it is represented by the learned Standing Counsel for the Tirumala Tirupathi Devasthanams that there is an alternative and efficacious remedy to the petitioner to file appeal before the Board of Trustees under Section 120(i) of A.P. Act 30 of 1987, and further appeal to the Government under Section 120(ii) of the Act, without going into the merits or otherwise of the case, the petitioner is directed to avail the alternative remedy.

6. With the above direction, the writ petition is accordingly disposed of. No costs.

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GHULAM MOHAMMED, J

26-08-2004

Glv

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to

1. The Executive Officer Tirumala Tirupathi Devasthanams

Tirupathi, Chittoor District.

2. The Chief Engineer Tirumala Tirupathi Devasthanams
   Tirupathi, Chittoor District.

3. Two C D copies.